

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**S.C. AND B.C., INDIVIDUALLY AND
AS NEXT FRIENDS TO C.C., A
MINOR CHILD,**

Plaintiffs

v.

**ROUND ROCK INDEPENDENT
SCHOOL DISTRICT AND JOSEPH
GRUBBS, INDIVIDUALLY,**

Defendants

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Case No. A-19-CV-1177-SH

ORDER

Plaintiffs have failed to serve Defendant Joseph Grubbs. A district court cannot exercise personal jurisdiction over a party without proper service of process. *Omni Capital Int’l, Ltd. v. Rudolf Wolf & Co.*, 484 U.S. 97, 104 (1987). Federal Rule of Civil Procedure 4(m) permits dismissal of a suit if a plaintiff fails to serve a defendant within 90 days of the filing of the complaint, but provides that, “if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” Proof of good cause “requires at least as much as would be required to show excusable neglect, as to which simple inadvertence or mistake of counsel or ignorance of the rules usually does not suffice.” *Thrasher v. City of Amarillo*, 709 F.3d 509, 511 (5th Cir. 2013).

Plaintiffs filed this lawsuit on December 2, 2019. The 90-day period in which to effect service on any unserved defendants has long expired. Under Rule 4(m), this Court may *sua sponte* dismiss an action without prejudice against unserved Defendants or order that service be made within a specified time. A plaintiff bears the burden of showing valid service or good cause for failure to effect timely service. *Thrasher*, 709 F.3d at 511.

Because they failed to demonstrate good cause for failing to serve Defendant Grubbs, on September 4, 2020, the Court ordered Plaintiffs to “file a status report explaining their failure to serve Defendant Joseph Grubbs within **14 days** of this Order. Otherwise, Defendant Grubbs will be dismissed under Rule 4(m).” Dkt. 47 at 1. Plaintiffs failed to comply with the Court’s Order.

Accordingly, the Court **HEREBY DISMISSES** Plaintiffs’ claims against Defendant Joseph Grubbs without prejudice under Federal Rule of Civil Procedure 4(m).

SIGNED on September 22, 2020.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE